

Adopted	Rejected
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COMMITTEE REPORT

YES:	9
NO:	0

MR. SPEAKER:

Your Committee on **Financial Institutions**, to which was referred Senate Bill 559, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1 Page 6, between lines 2 and 3, begin a new paragraph and insert:
- 2 "SECTION 4. IC 6-8.1-8-8 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. **(a)** After a tax
- 4 warrant becomes a judgment under section 2 of this chapter or a tax
- 5 warrant is returned uncollected to the department under section 3 of
- 6 this chapter, the department may take any of the following actions
- 7 without judicial proceedings:
- 8 (1) The department may levy upon the property of the taxpayer
- 9 that is held by a financial institution by sending a claim to the
- 10 financial institution. Upon receipt of a claim under this
- 11 subdivision, the financial institution shall surrender to the
- 12 department the taxpayer's property. If the taxpayer's property
- 13 exceeds the amount owed to the state by the taxpayer, the
- 14 financial institution shall surrender the taxpayer's property in an
- 15 amount equal to the amount owed. After receiving the
- 16 department's notice of levy, the financial institution is required to

1 place a sixty (60) day hold on or restriction on the withdrawal of
 2 funds the taxpayer has on deposit or subsequently deposits, in an
 3 amount not to exceed the amount owed.

4 (2) The department may garnish the accrued earnings and wages
 5 of a taxpayer by sending a notice to the taxpayer's employer. Upon
 6 receipt of a notice under this subdivision, an employer shall
 7 garnish the accrued earnings and wages of the taxpayer in an
 8 amount equal to the full amount that is subject to garnishment
 9 under IC 24-4.5-5. The amount garnished shall be remitted to the
 10 department. The employer is entitled to a fee in an amount equal
 11 to the fee allowed under IC 24-4.5-5-105(5). However, the fee
 12 shall be borne entirely by the taxpayer.

13 (3) The department may levy upon and sell property and may:

14 (A) take immediate possession of the property and store it in
 15 a secure place; or

16 (B) leave the property in the custody of the taxpayer;
 17 until the day of the sale. The department shall provide notice of
 18 the sale in one (1) newspaper, as provided in IC 5-3-1-2. If the
 19 property is left in the custody of the taxpayer, the department may
 20 require the taxpayer to provide a joint and several delivery bond,
 21 in an amount and with a surety acceptable to the department. At
 22 any time before the sale, any owner or part owner of the property
 23 may redeem the property from the judgment by paying the
 24 department the amount of the judgment. The proceeds of the sale
 25 shall be applied first to the collection expenses and second to the
 26 payment of the delinquent taxes and penalties. Any balance
 27 remaining shall be paid to the taxpayer.

28 **(b) A special counsel or collection agency that makes a claim to**
 29 **a financial institution on behalf of the department under subsection**
 30 **(a)(1) or on behalf of a county treasurer under IC 6-1.1-23-10(c)(1)**
 31 **shall submit the following to the financial institution:**

32 **(1) Proof of employment or contract with the department**
 33 **under section 4 of this chapter or county treasurer under**
 34 **IC 6-1.1-23-1.5.**

35 **(2) Subject to subsection (c), a fee of ten dollars (\$10) for each**
 36 **claim.**

37 **(3) A notice of levy issued by the department or county**
 38 **treasurer.**

(4) A form approved by the department or county treasurer containing instructions for remitting funds to the special counsel or collection agency making the claim.

(5) A stamped, self-addressed envelope for return of the form submitted under subdivision (4).

(c) A financial institution, special counsel, or collection agency may not assess or pass along a fee under subsection (b)(2) to:

(1) the department;

(2) the county treasurer;

(3) the taxpayer; or

(4) any other individual or unit of government."

Page 7, line 14, after "means." insert "However, during the period beginning July 1, 2007, and ending June 30, 2009, this subdivision does not apply to an affiliate or a subsidiary of a financial corporation issued a certificate of authority to operate as an industrial loan and investment company under IC 28-5 if all of the following apply:

(i) The industrial loan and investment company notifies the department in writing that an affiliate or a subsidiary of the industrial loan and investment company engages or plans to engage in activity involving Indiana residents at an out of state location. The notification required by this clause must list all states other than Indiana in which consumer loans may be made and must describe the nature of the proposed transactions.

(ii) The industrial loan and investment company provides written consent allowing the department to consult with and review information provided by other state regulators, as may be requested by the department, concerning the activities identified in clause (i) of any affiliate or subsidiary engaging in consumer lending to Indiana residents in the states identified under clause (i).

(iii) The industrial loan and investment company provides written consent allowing the department to inspect or examine all out of state locations in which an affiliate or a subsidiary of the industrial loan and investment company engages in the activities identified under clause (i), for the purpose of investigating the affiliate's or subsidiary's

1 **consumer lending practices involving Indiana residents. An**
 2 **inspection or examination performed by the department**
 3 **under this clause is subject to the schedule of fees**
 4 **established by the department under IC 28-11-3-5."**

5 Page 33, between lines 12 and 13, begin a new paragraph and insert:

6 "SECTION 32. IC 26-1-3.1-502.5 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 502.5. **(a) Except as**
 8 **provided in subsection (b),** a person to whom a check, a draft, an
 9 order, or like instrument is tendered may, if the instrument is
 10 dishonored or returned unpaid for any reason, charge and collect from
 11 the maker or drawer, or the person for whose benefit the instrument
 12 was given, an amount not to exceed twenty dollars (\$20) plus an
 13 amount equal to the actual charge by the depository institution for each
 14 returned or dishonored instrument. The charge shall not be considered
 15 an interest charge, a finance charge, a time price differential, or any
 16 charge of a similar nature.

17 **(b) To the extent applicable to a federally chartered bank, if a**
 18 **check is dishonored, a bank, trust, banc, banco, or bancorp may**
 19 **not charge any party other than the maker or drawer of the check**
 20 **a fee in connection with the dishonoring of the check."**

21 Page 115, between lines 7 and 8, begin a new paragraph and insert:

22 "SECTION 104. IC 28-13-9-2 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Except as
 24 provided in subsection (c), every director must, during the director's
 25 whole term of service, be a citizen of the United States. A director must
 26 be at least eighteen (18) years of age. At least ~~three-fifths (3/5)~~
 27 **one-half (1/2)** of the directors must reside in Indiana or within a
 28 distance of not to exceed fifty (50) miles of any office of the
 29 corporation of which the director is a director.

30 (b) The articles of incorporation or bylaws may prescribe other
 31 qualifications for directors. A director need not be a shareholder of the
 32 corporation unless the articles of incorporation or bylaws so prescribe.

33 (c) The director of the department may waive the United States
 34 citizenship requirement set forth in subsection (a) for a particular
 35 corporation if the waiver would affect only a minority of the total
 36 number of directors of the corporation."

37 Renumber all SECTIONS consecutively.

(Reference is to SB 559 as reprinted February 16, 2007.)

and when so amended that said bill do pass.

Representative Bardon